

# Proposed Rules

Federal Register

Vol. 60, No. 196

Wednesday, October 11, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Docket No. AO-79-2; FV95-985-4]

#### **Spearmint Oil Produced in the Far West; Hearing on Proposed Amendment of Marketing Order No. 985**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** Notice is hereby given of a public hearing to consider amending Marketing Order No. 985 (order). The order regulates the handling of spearmint oil grown in the Far West. The purpose of the hearing is to receive evidence on a proposal to amend provisions of the order. The Department of Agriculture (Department) is proposing this action to determine if portions of both the States of California and Montana should continue to be regulated under the order.

**DATES:** The hearing will begin at 9 a.m. in Spokane, Washington, on November 14, 1995. An additional session will be held on November 15, 1995, beginning at 9 a.m., if necessary.

**ADDRESSES:** The hearing will be held at Crescent Court, 707 W. Main, 3rd floor, Spokane, Washington 99201.

#### **FOR FURTHER INFORMATION CONTACT:**

Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523-S., P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127 or FAX (202) 720-5698; or Robert Curry, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, OR 97204-2807; telephone: (509) 326-2724 or FAX (509) 326-7440.

**SUPPLEMENTARY INFORMATION:** This action is governed by the provisions of

sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866. The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The Regulatory Flexibility Act (95 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impact of the proposal on small businesses.

The notice of hearing herein has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. The notice of hearing would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this notice to consider an amendment.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

The Department is proposing to reexamine § 985.5 "Production Area" under the order to determine if portions of California and Montana should continue to be regulated. This would require revision of the definition of "Production Area" in the order to eliminate areas currently regulated

under the order that no longer need to be covered in order to effectuate the declared policy of the Act. Evidence will also be collected to determine if the order covers the smallest regional production area practicable, consistent with carrying out the policy of the Act.

The public hearing is being held solely for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the composition of the regulated area under the order; (ii) determining whether there is a need to amend the order; and (iii) determining if amendment will tend to effectuate the declared policy of the Act.

The major area in which USDA is seeking evidence includes the following:

Should portions of the production area with no historic record of commercial production of spearmint oil continue to be regulated under the order?

Specifically, evidence is needed to determine if California and Montana should continue to be regulated under the order and whether the "Production Area" as defined under the order constitutes the smallest practicable area to be regulated.

Everyone having an interest in this matter is invited to testify. Persons wishing to submit written material as evidence at the hearing should submit at least four copies of such material and should be present at the hearing to present oral testimony concerning the material.

Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, Agricultural Marketing Service; Office of the General Counsel, and the Fruit and Vegetable Division, Agricultural Marketing Service.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Testimony is invited on the following proposal or appropriate alternatives or modifications to such a proposal. The proposal being submitted by the USDA is as follows:

**Proposal****§ 985.5 Production area.**

*Production area* means all the area within the States of Washington, Idaho, Oregon, and that portion of Nevada north of the 37th parallel and that portion of Utah west of the 111th meridian. The area shall be divided into the following districts:

- (a) *District 1.* State of Washington.
- (b) *District 2.* The State of Idaho and that portion of the States of Nevada and Utah included in the production area.
- (c) *District 3.* The State of Oregon.

**Authority:** 7 U.S.C. 601-674.

Dated: October 4, 1995.

**Lon Hatamiya,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 95-25121 Filed 10-10-95; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 95-NM-71-AD]

**Airworthiness Directives; Jetstream Model 4101 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to revise an existing airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that currently requires repetitive inspections to detect damage to the overwing fairings, and replacement or repair of structurally damaged fairings. That AD was prompted by a report indicating that an overwing fairing detached from an airplane. The actions specified by that AD are intended to prevent reduced controllability of the airplane due to loss of an overwing fairing. This action would add an optional terminating action for the currently required inspections, and would limit the applicability of the rule.

**DATES:** Comments must be received by November 20, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-71-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:**

William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-71-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-71-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

On November 22, 1994, the FAA issued AD 94-24-09, amendment 39-

9082 (59 FR 60891, November 29, 1994), applicable to certain Jetstream Model 4101 airplanes, to require repetitive inspections to detect damage to the overwing fairings, and replacement or repair of structurally damaged fairings. That AD was prompted by a report that an overwing fairing detached from an airplane. The actions specified by that AD are intended to prevent reduced controllability of the airplane due to loss of an overwing fairing.

Since the issuance of that AD, the manufacturer has developed a modification which, if installed on the airplane, will eliminate the need for the repetitive inspections of the overwing fairings. This modification (Modification No. JM41392) is described in Jetstream Alert Service Bulletin J41-53-031, dated November 22, 1994. It entails the installation of a new fairing that has stronger stiffeners and has one additional stiffener and an access panel. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as optional.

Additionally, Jetstream has issued Alert Service Bulletin J41-53-028, Revision 2, dated January 17, 1995, which describes procedures for conducting detailed visual inspections to detect structural damage (such as creasing, cracking, or holes) in the left (Part 1) and right (Part 2) overwing fairings, and repair or replacement of creased or cracked fairings with new or serviceable fairings. Revision 1 of this service bulletin was cited in AD 94-24-09 as the appropriate source of service information for performing these inspections and repairs. Information contained in Revision 2 of this service bulletin is essentially the same as that contained in Revision 1; however, the effectivity listing has been revised to indicate that the inspections are applicable only to airplanes on which Modification JM41392 has not been installed in production or in accordance with Jetstream Service Bulletin J41-53-031. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are